

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

IN THE MATTER OF:

DILIP JANA

Plaintiff,

v.

WALMART, INC.,

Defendant.

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Civil Action No. 4:24-cv-00698-SDJ-BD

[PROPOSED] ORDER

Before the Court is **Plaintiff's Motion to Set Aside the June 27, 2025 Protective Order (Dkt. 66) Based on Material Misrepresentation, Local Rule Violation, Due Process Violation, and Fraud Upon the Court and for Sanctions.**

Having considered the Motion, the supporting record, applicable law, and the interests of justice, the Court finds that:

- The Protective Order entered on June 27, 2025 (Dkt. 66) was issued based on material misrepresentations made by Defendant Walmart Inc.;
- Defendant's Reply (Dkt. 65) introduced new arguments in violation of Local Rule CV-7(f), depriving Plaintiff of a fair opportunity to respond;
- The entry of Dkt. 66 violated Plaintiff's due process rights under the Fifth Amendment;
- Defendant's conduct constitutes fraud upon the Court, undermining the integrity of these proceedings;

- Extraordinary circumstances exist warranting relief under Federal Rules of Civil Procedure 54(b), 60(b)(1), 60(b)(4), and 60(b)(6).

Accordingly, it is **ORDERED** that:

1. The Protective Order (Dkt. 66) is **VACATED** in its entirety.
2. Defendant's Renewed Motion for Protective Order (Dkt. 63) is **DENIED** as procedurally improper, lacking good cause under Rule 26(c), and violating the "exchange first, protect second" requirement under controlling Fifth Circuit precedent and this Court's prior Order (Dkt. 60).
3. **Monetary sanctions** are imposed against Defendant Walmart Inc. for reasonable expenses, lost time, and prejudice incurred by Plaintiff in addressing Defendant's discovery misconduct and misrepresentations to the Court. Plaintiff shall submit a sworn **Cost and Time Affidavit** within seven (7) days quantifying such expenses for the Court's review.
4. Pursuant to Rule 37(c)(1), **Defendant Walmart Inc. is precluded from using any documents, electronically stored information (ESI), or information not timely disclosed in its April 7, 2025 Initial Disclosure or its June 9, 2025 production in support of its defenses, dispositive motions, or at trial**, due to its failure to comply with mandatory disclosure obligations under Rule 26(a) and Rule 26(b)(5).
5. Defendant Walmart Inc. is **precluded from seeking any further protective orders** in this action absent express leave of Court, with any future requests requiring a specific, document-by-document showing under Rule 26(c) and Fifth Circuit standards.
6. The Court will consider **further relief as necessary to protect the integrity of these proceedings, deter future misconduct, and safeguard Plaintiff's statutory and constitutional rights in this whistleblower retaliation action.**

SO ORDERED.

Signed this ____ day of _____, 2025.

Hon. Bill Davis
United States District Judge
Eastern District of Texas